

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of: Hermann Dettwiler	)	Conf.: 4040
	)	
Serial No.: 10/511,615	)	Examiner: David D. Le
	)	
Filed: July 21, 2005	)	
	)	
For: DEVICE FOR CONVERSION	)	Art Unit: 3681
OF MOVEMENT	)	
	)	

**PETITION UNDER CFR 1.137(a) RECONSIDERATION**

Mail Stop: Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in Response to the decision on Petition which was received in the office of Applicant's attorney on August 25, 2008. Applicant respectfully requests reconsideration of the decision on petition, and respectfully request that the above noted patent application be revived and placed in queue for continued examination. A copy of the Decision of Petition is attached hereto as is the original Petition and the Response document which Applicant filed.

The decision on petition indicates that Applicant did not satisfy the requirement wherein a showing to the satisfaction of the Director that the entire delay in filing the required Reply from the date for the Reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The Notice indicates that a required showing should include 1) a statement from the practitioner stating that the office communication was not received by the practitioner and

attesting to the fact that a search of the file jacket and docket records indicates that the office communication was not received. 2) a copy of the docket record where the non-received office action communication would have been entered had it been received and document must be attached to and referenced in practitioner's statement.

As noted in the attached Declaration of Daniel M. Gurfinkel, Applicant's attorney, Applicant's attorney was caused to be made aware of the issuance of an Office Action (which had issued on December 4, 2007 and was entitled: Notice of Non-Compliant Amendment), as a result of a timely telephone conversation that Applicant's attorney had with a representative of Applicant. This telephone conversation took place on June 10, 2008, during which Applicant's attorney accessed the PAIR system of the United States Patent Office. During the telephone conversation Applicant's attorney searched for the status of the present application, Applicant's attorney noticed that an office action had issued and the due date for responding had passed. According to the declaration of Daniel M. Gurfinkel, Applicant's attorney retrieved the file for the application, from the place where it is stored, and reviewed the file to determine if an office action had been mailed and received. No such office action was found within the file. According to the declaration of Daniel M. Gurfinkel, Applicant's attorney then went to the computer version of the docketing system used by his law firm. That system is made by CPI (Computer Packages, Inc.) and is accessible through Applicant's attorney's personal computer in his office; a review of that system showed that the above noted office action for this application had not been docketed therein. Applicant's attorney then went to the docketing office of Applicant's attorney's firm and requested of the head docketing person, Monica Pauly (see declaration of Monica Pauly attached to original Petition to Revive), a copy of the docket report for the present application.

According to the declaration of Monica Pauly, attached to Applicant's original petition, Ms. Pauly checked the records in the docketing computer and found that no office action had been docketed. She then checked the chronological file (paper copies kept of all mail from the USPTO) of actual copies of office actions received on or about the subject date and found that there was no office action received for the present application.

Having checked the file jacket and docket records for the above noted patent application as well the chronological file of papers received on that date, Applicant's attorney became convinced that the office action had not been received by Applicant's attorney's office. According to the declaration of Monica Pauly attached hereto, Ms. Pauly checked all of her records and found no office action for that date for the present application.

According to the declaration of Daniel M. Gurfinkel, attached hereto, all mail received by the offices of Husch Blackwell Sanders Welsh & Katz (hereinafter "HBSWK") from the United States Patent and Trademark Office is copied for distribution to the attorney to whom the mail is addressed, and to any back-up attorneys, and the original is taken directly to the docketing department so that the dates therein can be entered into the docketing program. A copy of the paper received is placed in the docketing chronological file and the data from the correspondence is entered into the docketing system. The original of the document is then distributed to the attorney in charge for placement in the file jacket of the application. As noted above the search of the chronological file shows that no document was received. Also a search of the file jacket shows that the original of the office action was not placed therein. Further, Applicant's attorney, as noted in the Declaration of Daniel M. Gurfinkel, states that no copy of the office action was received by Applicant's attorney.

Therefore, Applicant avers no copy of the office action was received and therefore could

not have been responded to. Applicant's attorney encloses (labeled "Exhibit A") herewith a copy of the present docket record for this application as shown in its docketing system. Applicant's attorney has marked the docket in the place where an office action, if it had been received, would be recorded. No such office action is noted therein. As noted in the docket sheet, the previous office action is noted and a response was filed on November 27, 2007. The missing office action was the notice that that response was non-compliant and is not shown therein. The office action of December 4, 2007 was not received.

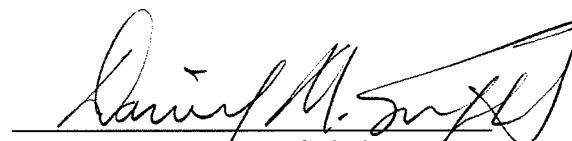
Applicant encloses herewith the remaining elements of its original petition to revive and respectfully requests reconsideration of its request to revive. Applicant states that the entire delay in filing the required reply was unavoidable.

Applicant also notes that it had incorrectly sent a \$770.00 petition fee and that a substantial portion of that has been credited to Applicant's attorney deposit account. Applicant appreciates this consideration. Applicant's attorney invites the Senior Petitions Attorney to contact Applicant's attorney directly should any further questions occur or if it is determined that an interview by telephone would expedite the handling of this petition.

Respectfully submitted

Husch Blackwell Sanders Welsh & Katz

October 3, 2008

  
\_\_\_\_\_  
Daniel M. Gurfinkel  
Attorney for Applicant  
Registration No. 34,177

Husch Blackwell Sanders Welsh & Katz  
120 South Riverside Plaza,  
22<sup>nd</sup> Floor  
Chicago, Illinois 60606  
(312) 655-1500

Husch Blackwell Sanders Welsh & Katz  
120 South Riverside Plaza  
22nd Floor  
Chicago, Illinois 60606  
(312) 655-1500

I hereby certify that this paper(s) is being transmitted  
via electronic mail to the Commissioner for Patents;  
P.O. Box 1450, Alexandria, VA 22313-0001 on:

10/3/08  
Date

Gloria O'Bannon  
Gloria O'Bannon

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of: Hermann Dettwiler	)	Conf.: 4040
	)	
Serial No.: 10/511,615	)	Examiner: David D. Le
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Filed: July 21, 2005	)	
	)	
For: DEVICE FOR CONVERSION	)	Art Unit: 3681
OF MOVEMENT	)	
	)	

**DECLARATION OF DANIEL M. GURFINKEL**

I, Daniel M. Gurfinkel, hereby declare that I am a Partner in the law firm of Husch Blackwell Sanders LLP Welsh & Katz (hereinafter "HBSWK") (formerly Welsh & Katz, Ltd.) having an address at 120 South Riverside Plaza, 22<sup>nd</sup> Floor, Chicago, IL 60606; the law firm appointed with the Power of Attorney and the correspondent of the above noted application. I am an attorney licensed in the State of Illinois to practice law and I am a registered patent attorney in the United States Patent and Trademark Office, Registration No. 34,177.

The above noted application has been placed under my general care by the Applicant. I prepared and filed a response to an outstanding office action; which response was filed on November 27, 2007.

After filing the response, the application jacket file was returned to its file cabinet. On or about June 10, 2008, I received a telephone call from an agent of the Applicant. During that telephone conference I accessed the USPTO Private PAIR system and began to search the records of the application, in order to give a status report to Applicant's agent.

Upon review of the PAIR file for the present application, I noted that an office action entitled "Notice of Non-Compliant Amendment" had been mailed to Applicant's attorney on December 4, 2007, in response to the amendment filed on November 27, 2007.

I immediately reported the office action to Applicant's agent and noted that the time for response had lapsed. I explained that I was unaware of the office action and that I would

immediately check the docket sheet and the file of the application to determine if the office action had been received in the offices of HBSWK.

Upon ending my conversation with Applicant's agent I immediately checked the computerized version of our docket system available at my personal computer in my office. A review of that docket system showed that nothing had been received from the United States Patent and Trademark Office in response to the amendment filed November 27, 2007. The docket showed no office action being received, nor that any response was due.

I immediately went to find the file jacket and, upon reviewing the jacket and its contents, found no office action dated December 4, 2007 therewithin. I then went to speak to the head of our Docket Department, Monica Pauly (see declaration of Monica Pauly attached to the original petition) and requested that she search the docket files to determine if she had information different than what is shown in our computer accessible docket files. Her search found that no office action had been received for that date. I then requested that she look through the chronological file of papers received from the U.S. Patent and Trademark Office, which file is kept by this firm for this type of circumstance.

A search of the chronological files showed that other mail had been received for other applications of the firm for the date of the office action and dates surrounding that date, however no office action, mailed on December 4, 2007, had been received for the present application.

Having determined that no office action was received I immediately returned to my office and telephoned the Examiner for the present application.

When I spoke to the Examiner he noted that the action had been mailed and that the time for response had elapsed. He indicated that as a favor he would prepare and put through a request to abandon the application so that Applicant could immediately begin this process of reviving the application.

I prepared and filed the petition to revive the present application, a copy of which is attached hereto. Having now received the decision to dismiss the Petition I have prepared this Declaration and the attached Request for Reconsideration.

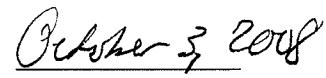
I have also completed a search of our docket system to get a copy of the docket record for this matter and have attached it hereto as Exhibit A. It is clear that no action has been docketed for that date.

I verily believe that the entire delay in filing the required reply was unavoidable. I have marked on the docket record, with an arrow, the space where the office action in question would have been docketed had it arrived.

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine, imprisonment or both under 18 USC §1001, and that such willful false statements may jeopardize the application and any subsequent letters patent that may issue therefrom, declares that all statements made of his own knowledge and all statement made on information are believed true.



Daniel M. Gurfinkel



Date

[← Back To Invention Record Detail...](#)[Print](#)**Country Application Record Detail**

Case Number: 93134  
 Country: (US) United States of America  
 Sub Case:  
 Case Type: ORD  
 Status: Abandoned  
 Client Code: 9 9652  
 Client Name: Cotopaxi AG  
 Client Ref:  
 Agent Code:  
 Agent Name:  
 Agent Ref:  
 Tax Schedule: LE  
 Application Number: 10/511,615  
 Filing Date: 10/15/2004  
 Confirmation Number: 4040  
 Publication Number: 0272552  
 Publication Date: 12/8/2005  
 Patent Number:  
 Issue Date:  
 Parent Application Number:  
 Parent Filing Date: 3/24/2003  
 Parent Patent Number: CH03/00000186  
 Parent Issue Date:  
 Expiration Date:  
 Title: 9 DEVICE FOR CONVERSION OF MOVEMENT  
 Remarks: PRIORITY DATA: PCT/CH03/00186 FILED: 3/24/03 10/19/04: Preliminary Amendment Filed  
 4/14/05: Assignment Filed Electronically 8/19/05: 371 Accepted Dated 7/21/05 8/25/08:  
 Decision on Petition Requesting Revival is DISMISSED

**Outstanding Actions**

Action Due	Due Date	Indicator
Reconsideration Request	9 10/28/2008	Due Date

**Completed Actions**

Action Due	Due Date	Indicator	Taken
9 Postcard Receipt	11/29/2004	Reminder	10/26/2004
9 Postcard Re: Preliminary Amend	12/3/2004	Reminder	10/26/2004
9 Filing Receipt Expected	12/15/2004	Reminder	8/19/2005
9 Information Disclosure Stmtnt	1/15/2005	Due Date	4/22/2005
9 Foreign Filing - 6 Mos.	4/15/2005	Reminder	10/15/2004
9 Postcard Re: IDS	6/6/2005	Reminder	5/9/2005
9 Foreign Filing - 9 Mos.	7/15/2005	Reminder	10/15/2004
9 1 Mo to Missing Parts Due	8/7/2005	Reminder	7/19/2005
9 Postcard Re: Missing Parts	9/2/2005	Reminder	8/1/2005
9 371 - Missing Parts Due	9/7/2005	Due Date	7/19/2005
9 Foreign Filing Deadline	10/15/2005	Final	10/15/2004
9 Assignment Recordal Expected	1/14/2006	Reminder	1/14/2006
9 Application Status Check	4/15/2006	Due Date	5/30/2007
9 1 Month to Due Date	7/30/2007	Reminder	11/27/2007

⌘ 3 Month Due Date	8/30/2007	Due Date	11/27/2007
⌘ 1st Extension	9/30/2007	Reminder	11/27/2007
⌘ 2nd Extension	10/30/2007	Reminder	11/27/2007
⌘ 2 Weeks to Final Date	11/14/2007	Due Date	11/27/2007
⌘ 6 Month Final Date	11/30/2007	Final	11/27/2007
⌘ US-3 Month Offi Follow Up Date	5/27/2008	Reminder	6/24/2008
⌘ Petition to Revive Due	7/24/2008	Due Date	7/21/2008
⌘ Status Inq.Re: Petit to Revive	12/21/2008	Reminder	8/25/2008
⌘ Petition to Revive due in 1yr	6/24/2009	Reminder	7/21/2008
⌘ 1mo until Petition to Revive	5/24/2010	Reminder	7/21/2008
⌘ Petition to Revive Due	6/24/2010	Final	7/21/2008



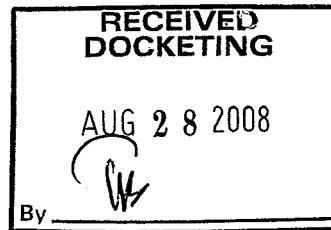
UNITED STATES PATENT AND TRADEMARK OFFICE

93134 (SEF/DWG)

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

11-2-17

Husch Blackwell Sanders, LLP  
Welsh & Katz  
120 S RIVERSIDE PLAZA  
22ND FLOOR  
CHICAGO IL 60606



In re Application of  
Dettwiler  
Application No. 10/511,615  
Filed: July 21, 2005  
Attorney Docket No. 93134

COPY MAILED

AUG 25 2008

OFFICE OF PETITIONS

ON PETITION

This is a decision on petition, filed July 21, 2008, requesting revival of the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(a)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned on December 5, 2007 for failure to reply to the Notice of Non-Compliant Amendment (Notice), mailed December 4, 2007, which set an extendable one (1) month period for reply. A Notice of Abandonment was mailed on June 24, 2008.

Petitioner asserts that the December 4, 2007 Notice was not received. Therefore, the delay in responding to it was unavoidable.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed.; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition does not satisfy requirement (3).

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.<sup>1</sup>

A review of the record indicates no irregularity in the mailing of the December 4, 2007 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because (1) practitioner did not include a statement that a thorough and fruitless search of the file jacket was conducted and (2) practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Regarding fees: Petitioner was charged a \$770.00 petition fee, which is the small entity fee associated with filing a petition to revive under 37 CFR 1.137(b). As this petition was filed under

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<sup>1</sup> See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

37 CFR 1.137(a), petitioner should have been charged \$255.00, the small entity fee associated with filing a petition under 37 CFR 1.137(a). Deposit account no. 23-0920 will be credited the \$515.00 balance due petitioner.

### **ALTERNATIVE VENUE**

If petitioner is unable to provide documentary evidence that the December 4, 2007 Notice was not received, petitioner should strongly consider filing a petition under 37 CFR 1.137(b).

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an “unintentionally” abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was “unavoidable.” This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m) (\$770.00); (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A revival petition fee must be submitted with a revival petition, as the fee is a statutory requirement.

Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

**By hand:** U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop Petition  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

**By FAX:** (571) 273-8300 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

*Shirene Willis Brantley*

Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Attorney Docket No. 9652-93134)

In the Application of: )  
Herman Dettwiler ) Confirmation No. 4040  
 )  
Serial No. 10/511,615 ) Art Unit 3681  
 )  
Filed: July 21, 2005 ) Examiner:  
 ) David D. Le  
 )  
For: DEVICE FOR CONVERSION )  
OF MOVEMENT )

PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(a)

Box Petitions  
Hon. Commissioner of Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Applicant respectfully request that the above captioned application be revived. Applicant avers that the entire delay in reply by Applicant was unavoidable. Applicant encloses, herewith, the reply required by the outstanding Notice of Non-Compliant Amendment (37 C.F.R. 1.121). Should the Commissioner determine that a fee is due for this petition he is authorized to charge that fee and any additional fee to Deposit Account No. 23-0920.

Applicant is represented by the law offices of Husch Blackwell Sanders LLP Welsh & Katz (previously Welsh & Katz Ltd.) having an office at 120 S. Riverside Plaza, 22<sup>nd</sup> Floor, Chicago, Illinois 60606 (hereinafter "HBSWK").

Applicant has been prosecuting this application since its filing date in July of 2005 and desires to have a patent on the invention. To that end, Applicant responded, through its attorney, to an outstanding Office Action on November 27, 2007 believing that a full response had been made. Unknowingly, Applicant's attorney inadvertently missed labeling a sheet of drawings with

Application of Dettwiler  
Serial No. 10/511,615  
PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(a)

an appropriate heading. This caused the United States Patent and Trademark Office to issue a Notice of Non-Compliant Amendment on December 4, 2007.

Applicant's attorney did not receive the Notice of Non-Compliant Amendment and did not learn of the issuance of the Notice until June 10, 2008, after the date when a response could be filed, when coincidentally Applicant's representative in Europe called Applicant's attorney to discuss a matter related to the present application. Applicant immediately called to speak with the Examiner of the present application. The Examiner was kind enough to move the application forward to abandonment so that Applicant's attorney could quickly move to revive the application through this petition. The abandonment of the application was received on June 26, 2007 in the offices of HBSWK and Applicant has taken every step to petition to revive the application without delay.

Applicant's attorney has investigated the above facts and has determined that the Notice of Non-Complaint Amendment was not received in its offices. The investigation of the facts has determined that in accordance with the practices of Applicant's attorney's office, every item of correspondence received via US Mail from the United States Patent and Trademark Office is received in the HBSWK mail room and brought directly to the HBSWK docketing office. On the day of receipt, the correspondence is copied and a copy is given to each of at least two attorneys having responsibility for the application to which the correspondence relates. A further copy, known as the *chronological file copy*, is made and placed in a file dedicated to all correspondence received from the USPTO, along with all other correspondence received from

Application of Dettwiler  
Serial No. 10/511,615  
PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(a)

the USPTO on the date received. This last copy is kept as a continuous record of all correspondence received in the HBSWK office from the USPTO in a file with all other correspondence received and is kept in chronological order. The original correspondence from the USPTO is then reviewed by the docketing staff and any due dates for response or other correspondence are entered into the HBSWK computer docketing system. The original is then placed in the firm file of the application. See Declaration of Monica Pauly, attached hereto.

This is the process followed for every item of correspondence received from the USPTO; no deviation from this process is permitted. According to the head of the HBSWK docketing department no deviation from this process has occurred. See Declaration of Monica Pauly, attached hereto.

According to the Declaration of Monica Pauly, she received a telephone call from attorney Daniel M. Gurfinkel, the attorney most responsible for the prosecution of the present application, requesting that she check the docketing department computer records to find if an Office Action had been received by HBSWK for the above application. Ms Pauly checked the HBSWK docketing program and determined that no Office Action had been docketed for that file on or about that date. She then checked the chronological file to see if the paper had been received. She checked through several weeks of received correspondence around the December 4, 2007 date and did not find any correspondence for the present Application. She states, Declaration of Monica Pauly that other matters mailed by the USPTO on December 4, 2007 were

Application of Dettwiler  
Serial No. 10/511,615  
PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(a)

found in the chronological file but that the Notice of Non-Compliant Amendment of December 4, 2007 was not.

Ms Pauly has determined, based on her review, that the Office Action in question had not been received, Declaration of Monica Pauly. Because the Office Action was not received Applicant's Attorney had no chance to file a response thereto and as such the delay in Applicant's response was unavoidable.

Consideration of Applicant's petition and withdrawal of the holding of abandonment is respectfully requested.

Respectfully submitted,



Daniel M. Gurfinkel  
Attorney for Applicant  
Registration No. 34,177

July 21, 2008  
HUSCH BLACKWELL SANDERS LLP  
WELSH & KATZ, LTD.  
120 South Riverside Plaza,  
22<sup>nd</sup> Floor  
Chicago, Illinois 60606  
(312) 655-1500

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Attorney Docket No. 9652-93134)

In the Application of: )  
Herman Dettwiler ) Confirmation No. 4040  
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Serial No. 10/511,615 ) Art Unit 3681  
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Filed: July 21, 2005 ) Examiner:  
 ) David D. Le  
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RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT (37 C.F.R. 1.121)

Box Petitions  
Hon. Commissioner of Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

In response to the Notice of Non-Compliant Amendment mailed on December 24, 2007, Applicant responds as follows.

Application of Dettwiler  
Serial No. 10/511,615  
July 21, 2008  
Page -2-

IN THE DRAWINGS:

Applicant encloses a new sheet of drawings for Figures 21 and 22, with the appropriate marking in the margins.

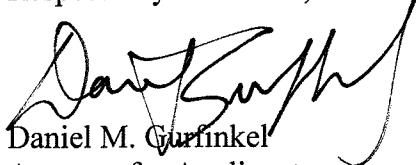
Application of Dettwiler  
Serial No. 10/511,615  
July 21, 2008  
Page -3-

REMARKS

Applicant encloses a new sheet of drawings appropriately labeled as "New Sheet". No new matter has been added.

Continued examination and allowance of the claims is respectfully requested.

Respectfully submitted,

  
Daniel M. Gorfinkel  
Attorney for Applicant  
Registration No. 34,177

July 21, 2008  
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ, LTD.  
120 South Riverside Plaza,  
22<sup>nd</sup> Floor  
Chicago, Illinois 60606  
(312) 655-1500

Fig. 21

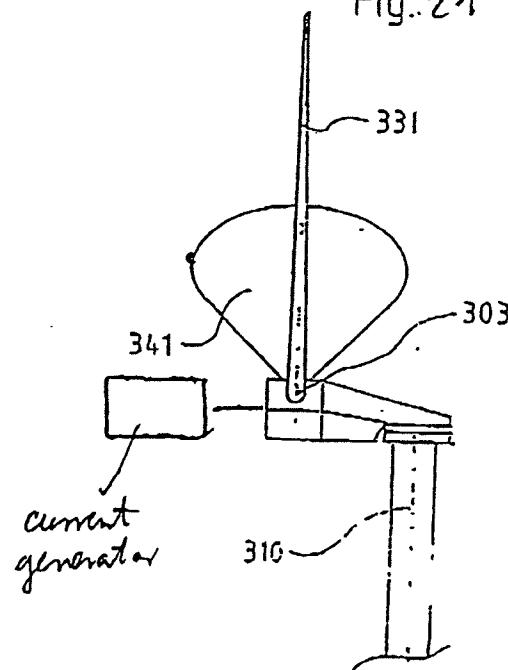
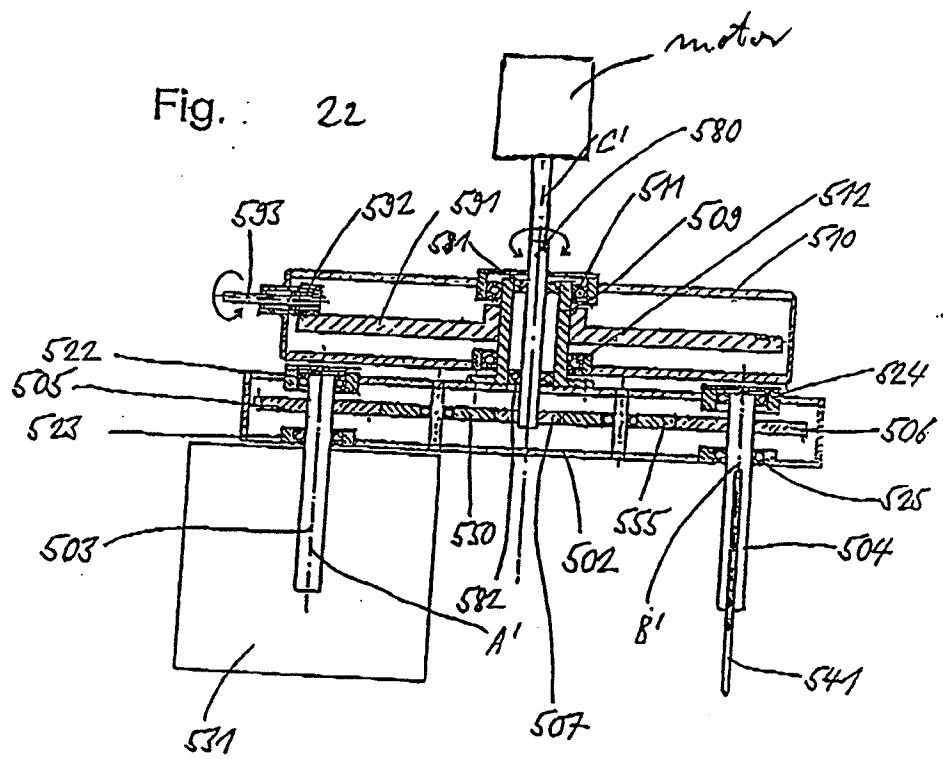


Fig. 22



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Attorney Docket No. 9652-93134)

In the Application of: )  
Herman Dettwiler ) Confirmation No. 4040  
 )  
Serial No. 10/511,615 ) Art Unit 3681  
 )  
Filed: July 21, 2005 ) Examiner:  
 ) David D. Le  
 )  
For: DEVICE FOR CONVERSION )  
OF MOVEMENT )

DECLARATION OF MONICA PAULY

I, MONICA PAULY hereby declare that:

I am the head of Docketing for the law firm of Husch Blackwell Sanders LLP Welsh & Katz (hereinafter "HBSWK") (formerly Welsh & Katz, Ltd.), having an address at 120 S. Riverside Plaza, 22<sup>nd</sup> Floor, Chicago, Illinois 60606; the law firm appointed with a power of attorney and the correspondent of the above noted application.

Among my duties, and the duties of my staff, are the intake and docketing of all correspondence from the United States Patent and Trademark Office with respect to any and all application on files in the USPTO.

In accordance with our usual practice, every item of correspondence received via US Mail is received in our mail room and brought directly to my office. The correspondence is copied and a copy is given to each of at least two attorneys having responsibility for the application. A further copy, our chronological file copy, is made and placed in a file along with all other correspondence received from the USPTO on the date received. This last copy is kept as a continuous record of all correspondence received in our office from the USPTO in a file with all other correspondence received and is kept in chronological order. The original correspondence

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from the USPTO is then reviewed by me or my staff and any due dates for response or other correspondence are entered into our computer docketing system. The original is then placed in the firm file of the application.

This is the process followed for every item of correspondence received from the USPTO; no deviation from this process is permitted and to the best of my knowledge no deviation from this process has occurred.

On June 10, 2008, one of the attorneys responsible for this file, Daniel M. Gurfinkel, asked me to check the records in our docketing computer to find if an Office Action had issued for the above application on December 4, 2007. I checked our docketing program and determined that no Office Action had been docketed for that file on that date. I then checked the chronological file to see if the paper had been received. I checked through several weeks of received correspondence received around the December 4, 2007 mailing date and did not find any correspondence for the present application. Other matters mailed by the USPTO on December 4, 2007 were found in the chronological file.

Upon this review I determined, and reported to Mr. Gurfinkel, that the Office Action in question had not been received in our offices. As the correspondence had not been received no record of the correspondence or the due dates for a response were entered into the HBSWK docket program.

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful

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false statements may jeopardize the application and any subsequent letters patent that may issue therefrom, declares that all statements made of her own knowledge are true and all statements made on information and belief are believed true.

July 21 2008  
Date

Monica Pauly  
Monica Pauly